

HIGH COURT OF GUJARAT**SUN PHARMACEUTICALS INDUSTRIES & 7***Versus***STATE OF GUJARAT & 1****Date of Decision:** 27 June 2017**Citation:** 2017 LawSuit(Guj) 2316**Hon'ble Judges:** [Biren Vaishnav](#)**Case Type:** Special Criminal Application; Criminal Miscellaneous Application**Case No:** 2024 of 2011; 318 of 2014**Subject:** Civil, Environment & Pollution, Forest**Acts Referred:**[Environment \(Protection\) Act, 1986 Sec 16](#), [Sec 15](#), [Sec 3](#)[Environment \(Protection\) Rules, 1986 R 5](#)**Advocates:** [Nanavati Associates](#), [Sunil L Mehta](#), [Vaibhav A Vyas](#), [Pranav Trivedi](#)**Biren Vaishnav, J.**

[1] The present petition has been filed praying for quashing and setting aside Criminal Case No. 822 of 2011 filed before the Judicial Magistrate, First Class, Vagra, Bharuch for contravention of provisions of Section 3 of the Environment (Protection) Act, 1986 ('the Act' for short) and the provisions of the Notification S.O. 1533(E) dated 18.05.2006 ('the Notification' for short) promulgated under Rule 5 of the Environment (Protection) Rules, 1986 contemplating prior environmental clearance for construction of new projects and provisions under Sections 15 and 16 of the Act.

[2] It is the case of the petitioners that the petitioner no. 1 Company, with an intention to set up manufacturing unit in Dahej SEZ, developed by the Gujarat Industrial Development Corporation (GIDC), had purchased a unit situated at Plot No. Z-15, Dahej SEZ Industrial Area, for manufacture of Bulk Drugs and Formulations. The GIDC had allotted the Unit to the petitioner no. 1 company on 15.04.2009. As a condition precedent, GIDC was accorded Environment Clearance by the Ministry of Environment before the commencement of the project at Dahej-SEZ.

[3] The primary argument made by learned advocate for the petitioners was that pursuant to the environmental clearance accorded by the Ministry of Environment to the Dahej SEZ, the petitioner No. 1 Company started construction of the manufacturing unit in good faith on 24.11.2010 in accordance with the environment clearance granted to the whole SEZ Dahej Project. Once the SEZ itself had been granted clearance no separate clearance was envisaged from the Central Government as alleged in the complaint.

[4] Mr. Vaibhav Vyas, learned advocate for the authority contended that once the Environmental Clearance was applied for and granted by the SEIAA, such an argument/contention is misconceived.

[5] Reading of the complaint indicates that what is alleged is breach of conditions of obtaining prior Environmental Clearance to be granted by the Central Government. It is undisputed that it is the SEIAA which has granted such clearance. Apparently, therefore, there is no breach of conditions of obtaining prior Environmental Clearance as stated from the Central Government. To that extent the complaint is misconceived and without application of mind. On that ground, the complaint is quashed. It will, however, be open for the complainant to file a fresh complaint on the breach alleged. With the aforesaid observations, the petition is allowed. Rule is made absolute accordingly.

[6] In view of the order passed in the main petition, no orders are passed in the Criminal Application and the same is accordingly disposed of.